

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.111.5.
--

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re J.G., a Person Coming  
Under the Juvenile Court Law.

2d Juv. No. B288669  
(Super. Ct. No. YJ39227)  
(Los Angeles County)

THE PEOPLE,

Plaintiff and Respondent,

v.

J.G.,

Defendant and Appellant.

J.G. appeals from the judgment entered after the juvenile court sustained a juvenile petition (Welf. & Inst. Code, § 602) for second degree robbery (Pen. Code, § 211) and assault by means of force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(4)). The trial court declared the offenses felonies and placed appellant home on probation. Appellant contends that the field identification of appellant and his cohorts,

conducted minutes after the strong-arm robbery, was unduly suggestive and violated his due process rights. We affirm.

### *Facts*

During the early morning hours on April 8, 2017, a group of teenagers beat Efren H. and took his wallet. Before the attack, Efren consumed five to 10 beers and ate at a McDonalds in Santa Monica. The teenagers were already inside the restaurant and told A.B., a 13-year-old girl, to approach appellant and ask for money. When Efren opened his wallet and gave her \$20, A.B. commented that he had a lot of money.

Efren walked to Fourth Street to catch a bus and discovered the bus was not running. On the walk back, the teenagers approached Efren, pointing and yelling that they would get him. Fearing for his safety, Efren took off his belt and swung it at the ground to scare them off. The teenagers attacked from behind, threw Efren to the ground, and punched and kicked him. After the teenagers fled, Efren discovered that his wallet, which had \$400, was missing from his back pocket.

Gerardo M., who was across the street at the Wyndham Hotel, saw seven or eight “young guys” beat Efren. Two girls cheered the boys on, “telling them to keep on doing it.” One girl, shouted, “Kick his ass, kick his ass!”

Gerardo yelled, “Hey, what are you guys doing” and saw the group run towards the Metro station. One of the boys (J.G.) kicked Efren in the neck, grabbed an object that appeared to be a wallet, and ran off with the others. Gerardo heard the group scream, “Hell, yeah, we got it. Let’s run.”

The Santa Monica Police detained seven to 10 teenagers at the Metro train platform about two blocks away. Officer Maria Pardo drove Efren to the train platform for a field

show-up and admonished him that although the officers were presenting possible suspects, it should not influence Efren's identification.

Officer Prado parked about 25 feet away from the suspects with Efren in the back seat. A second officer walked the suspects forward "one at a time" and asked Efren, "one by one, if the people presented to him were the people involved in the crime." The trial court reviewed a video of the field show-up and looked at photographs taken from the patrol car's front and rear-facing cameras.

Efren identified the 13-year-old girl (A.B.) and three males, including appellant. Santa Monica Police Officer Tina Greer asked "which one took your wallet?" Efren responded "[a]ll of them" but could not say which minor physically took the wallet from his pocket.

Santa Monica Police Officer Ashley Allen found Efren's wallet in the trash can where appellant was detained. Efren's belt was also found and a second officer patted down appellant's cohort, S.G. S.G. had Efren's driver's license, two Wells Fargo bank cards, and Efren's Mexican consulate identification.

After Efren identified the 13-year old girl, appellant, S.G., and a fourth male, Officer Rashad Riley transported appellant to the police station. On the drive there, appellant initiated a conversation that was recorded. Appellant admitted being involved and said, "Yeah, I hit him."

Appellant moved to dismiss the petition for insufficiency of the evidence. (Welf. & Inst. Code, § 701.1.) Appellant's trial attorney argued that "[t]he identifications are extremely suspect. They are extremely leading for the officers to

pull up to a location, direct [Efren] to seven or ten people, that are approximately 100 to 200 feet away, . . . and say look up there. ‘Which one of those people took your wallet.’” The trial court denied the motion, sustained the petition, and declared appellant a ward of the court. (Welf. & Inst. Code, § 602.)

#### *Field Identification*

Appellant argues that the field identification was unduly suggestive and violated his due process rights. Appellant forfeited the issue by not objecting on those grounds at trial. (Evid. Code, § 353; *People v. Medina* (1995) 11 Cal.4th 694, 753.) Appellant argued that the manner in which the field show-up was conducted went to the weight of the evidence, not its admissibility. Due process was not argued and may not be raised for the first time on appeal.

On the merits, appellant bears the burden of showing that the identification was unreliable. (*People v. Cunningham* (2001) 25 Cal.4th 926, 989-990.) Although field show-ups contain an element of suggestiveness, they are not inherently unfair. (*In re Carlos M.* (1990) 220 Cal.App.3d 372, 386.) In determining whether a field identification is unreliable, the court considers “the opportunity of the witness to view the criminal at the time of the crime, the witness’ degree of attention, the accuracy of his prior description of the criminal, the level of certainty demonstrated at the confrontation, and the time between the crime and the confrontation. Against these factors is to be weighed the corrupting effect of the suggestive identification itself.” (*Manson v. Brathwaite* (1977) 432 U.S. 98, 114; see also *People v. Clark* (2016) 63 Cal.4th 522, 556.)

Here, the field show-up was conducted shortly after the robbery. Officer Padro read Efren the standard field

admonition and drove appellant to the train platform where the minors were detained. Seven individuals were presented for identification and Efren identified four but could not say who kicked and punched him and who took his wallet. During the field show-up, the officers asked Efren over and over again to identify who took wallet. Over and over again, Efren said he could not say who it was but did indicate they were all involved. Officer Padro asked, “Okay, so you saw all of them?” Efren answered “Yes.”

Appellant claims that the identification was unreliable because Efren was intoxicated and did not remember the faces of the boys who attacked him. That goes to the weight of the evidence not its admissibility. On review, we do not reweigh the evidence or reassess the credibility of a witness. (*In re Frederick G.* (1979) 96 Cal.App.3d 353, 367.) The trial court was a “little troubled by . . . the amount of alcohol that Efren . . . consumed that evening, and that morning [but] I have to put a certain level of credibility in what he says, because I think for the most part he’s pretty accurate.”

Efren did not remember the assailants’ faces very well but identified them in court as “the young men that are there in orange.” Efren was asked “Who do you recognize?” Efren answered, “I only remember the girl (i.e., A.B.). I don’t remember the boys very well.”

Efren’s field identification was corroborated by Gerardo M. who witnessed the robbery and testified that male assailants are “dressed in orange and they’re sitting over there.” Gerardo identified J.G. as the one who took Efren’s wallet and said “[t]he other ones, basically I saw them, like, from the back.” The officers found Efren’s stolen wallet and belt on the train

platform. And Efren's driver's license, bank cards, and Mexican consulate identification were on S.G.'s person. After Efren identified his assailants, an officer asked the 13-year-old girl, A.B., "Do you know it's wrong to assault someone and take their property against their will?" A.B. replied, "Yes, but I don't really care." More damning, was appellant's recorded statement in the police car in which he admitted being involved and said, "Yeah, I hit him."

Field show-ups are not inherently unfair. (See *People v. Ochoa* (1988) 19 Cal.4th 353, 413.) Indeed, "single-person show-ups *for purposes of in-field identifications* are encouraged, because the element of suggestiveness inherent in the procedure is offset by the reliability of an identification made while the events are fresh in the witness's mind, and because the interests of both the accused and law enforcement are best served by an immediate determination as to whether the correct person has been apprehended. [Citation.]" (*In re Carlos M.*, *supra*, 220 Cal.App.3d at p. 387.)

Appellant makes no showing that the field identification was unduly suggestive or violated his due process rights. Based on the totality of the circumstances, we cannot say that the field identification was "so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification." (*Simmons v. United States* (1968) 390 U.S. 377, 384.)

*Disposition*

The judgment (jurisdiction order and disposition order placing appellant home on probation) is affirmed.

NOT TO BE PUBLISHED.

YEGAN, Acting P. J.

We concur:

PERREN, J.

TANGEMAN, J.

J. Christopher Smith, Judge

Superior Court County of Los Angeles

---

Holly Jackson, under appointment by the Court of  
Appeal for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler,  
Chief Assistant Attorney General, Lance E. Winters, Senior  
Assistant Attorney General, Susan Sullivan Pithey, Supervising  
Deputy Attorney General, Michael J. Wise, Deputy Attorney  
General, for Plaintiff and Respondent.